

REMARKS

I. The Status of the Claims

Claims 46-68 are pending in the present application. Claims 1-45 and 69-74 have been canceled.

II. The Rejection Under 35 U.S.C. § 102

The final Office Action maintains the rejection of claims 46-68 under 35 U.S.C. § 102 as being anticipated by Remenar et al. (US20060052432). In particular, the final Office Action asserts:

In response to the above arguments, it is noted that Remenar (US PgPub 2006/0052432) claims priority to Provisional applications that the present application do not claim priority to. In particular, Remenar claims priority to 60/427,086 which was filed on 11/15/2002 and gives priority to the Remenar application...

(Final Office Action at page 2). In response, Applicants submit that the attached DECLARATION UNDER 37 C.F.R. § 1.132 ("Declaration") obviates any basis for the rejection under 35 U.S.C. § 102. In particular, the Declaration demonstrates that Applicants were in possession of the invention recited in claims 46-68 prior to the November 15, 2002, the filing date of U.S. Application Serial No. 60/456,027. More particularly, the Declaration demonstrates that Mark Tawa, the declarant, and his co-inventors prepared:

A pharmaceutical composition comprising a salt form of celecoxib and a poloxamer. (See Laboratory Notebook No. 129, Pages 14-18); and

A pharmaceutical composition comprising a salt form of celecoxib and an enhancer (e.g., hydroxypropylcellulose and hydroxypropylmethylcellulose). Laboratory Notebook No. 114, Pages 100-102

prior to November 15, 2002. Reconsideration and withdrawal of the rejection of claims 46-68 under 35 U.S.C. § 102 as being anticipated by Remenar et al. are respectfully requested.

III. The Rejection Under 35 U.S.C. § 103

The final Office Action maintains the rejection of claims 46-68 under 35 U.S.C. § 103 as being obvious over Tawa et al. (US20070015841) in view of Remenar et al. In particular, the final Office Action asserts:

In response to the above arguments, it is noted that the document that was used in the rejection is not the now patent but the PgPub 2007/0015841 which claims priority to many different provisional applications that claim priority to dates before the priority date of the present invention. Therefore, Applicants arguments are not found persuasive and the rejection is maintained.

Final Office Action at pages 2-3. Applicants respectfully traverse the rejection.

Applicants respectfully submit that priority was corrected in Tawa et al. during prosecution. See attached Amendment Under 37 C.F.R. § 1.116, dated December 22, 2009. It was therefore determined that the additional priority dates that appeared during prosecution could not be used for purposes of priority of the Tawa et al. application. As stated in the Amendment filed October 4, 2010, Tawa et al. now claims priority to six provisional patent applications. The above-identified patent application claims priority to each and every one of these six applications. Therefore, Tawa et al. cannot be prior art to the above-identified patent application. In addition, for the reasons discussed above, Remenar et al. also cannot be prior art to the above-identified patent application. Reconsideration and withdrawal of the rejection of claims 46-68 under 35 U.S.C. § 103 as being obvious over Tawa et al. and Remenar et al. are respectfully requested.

IV. Conclusion

Early consideration and prompt allowance of the claims are respectfully requested. If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/TP15013USPCT6/LAD.

Respectfully submitted,

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Attachments:

DECLARATION UNDER 37 C.F.R. § 1.132
Amendment Under 37 C.F.R. § 1.116